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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,163	12/15/2000	Koichi Yoshimi	1614.1103	8082

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STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

O BRIEN, BARRY J

ART UNIT	PAPER NUMBER
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2183

DATE MAILED: 04/07/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/736,163

Applicant(s)

YOSHIMI, KOICHI

Examiner

Barry J. O'Brien

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11,12,14,15,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11,12,14,15,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. Claims 11-12, 14-15 and 17-18 have been examined.

***Papers Submitted***

2. It is hereby acknowledged that the following papers have been received and placed on record in the file: Extension of Time as received on 2/18/2004 and Amendment A as received on 2/18/2004.

***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
4. The applicant is requested to review the specification and update the status of all co-pending applications made mention of, replacing attorney docket numbers with current U.S. application or patent numbers when appropriate.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 11-12, 14-15 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Shiell et al., U.S. Patent No. 6,108,775.

7. Regarding claims 12, 15 and 18, taking claim 18 as exemplary, Shiell has taught an information processing apparatus, comprising:

- a. A first part performing a branch prediction in response to a branch instruction (see Col.7 lines 54-58 and Col.8 lines 20-27),
- b. A second part updating a transition probability of the branch prediction according to whether a branch is actually made (see Col.9 lines 5-9, Col.13 lines 41-47 and Col.15 lines 12-24),
- c. A third part detecting that a process is switched (see Col.16 lines 15-48),
- d. A fourth part initializing branch prediction information when the third part detects that the process is switched (see Col.8 lines 27-37, 56-59 and Col.16 lines 39-43),
- e. Wherein the fourth part performs initialization according to a branch destination of the branch instruction (see Col.8 lines 27-37, 56-59 and Col.10 lines 8-11, 41-53).

8. Claims 12 and 15 are nearly identical to claim 18. Claim 12 differs in that it is comprised in an arithmetic and logic unit, and claim 15 is a method, but both claims encompass the same scope as claim 18. Therefore, claims 12 and 15 are rejected for the same reasons as claim 18.

9. Regarding claims 11, 14 and 17, taking claim 17 as exemplary, Shiell has taught the information processing apparatus as claimed in claim 18, wherein the fourth part performs initialization based on prediction information given to the branch instruction (see Col.8 lines 27-37, 56-59).

10. Claims 11 and 14 are nearly identical to claim 17, differing in their parent claims, but encompassing the same scope. Therefore, claims 11 and 14 are rejected for the same reasons as claim 17.

***Response to Arguments***

11. Applicant's arguments filed on 2/18/2004 have been fully considered but they are not persuasive.

12. On p.10 of the present amendment, the Applicant asserts that, “...*initialization is fixedly performed in the present invention according to a branch destination address, without depending on a particular program,*” while it is asserted that the Shiell reference, “...*discloses initializing branch prediction information according to the type of program in which branching instructions are contained.*”

13. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., initialization according to a branch destination address without depending on a particular program) are not recited in the rejected claim(s) 12, 15 and 18. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

14. Furthermore, while the Shiell reference does select from a plurality of branch history tables in order to take advantage of similarities in branch behavior of instructions in programs of the same type (see Col.8 lines 38-48), Shiell does use the branch target for the initialization of

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branch prediction information (see Col.10 lines 41-53), which reads upon the limitation as claimed in claims 12, 15 and 18 (see above paragraph 7).

15. On p.11 of the present amendment, the Applicant asserts that, *"In contrast, according to the present invention, when a branch instruction is fetched, an initialization value for branch prediction is determined according to the BTFN method."*

16. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., initialization value being determined according to the BTFN method) are not recited in the rejected claim(s) 12, 15 and 18. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. O'Brien whose telephone number is (703) 305-5864. The examiner can normally be reached on Mon.-Fri. 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Chan can be reached on (703) 305-9712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJO

  
EDDIE CHAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Barry J. O'Brien  
Examiner  
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